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Duane Allen Ansel

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STOEL RIVES LLP - PDX
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND, OR 97204-1268

EXAMINER

NGUYEN, THUY-VI THI

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/775,757	Applicant(s) ANSEL ET AL.	
	Examiner THUY-VI NGUYEN	Art Unit 3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-13 and 16-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-13 and 16-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to the applicant's communication filed on 07/20/10 wherein

Claims 1, 3-13, 16-30 are currently pending;

Claims 1, 3, 5-6, 11-13, 16, 23-24, 27-29 have been amended;

Claims 2, 14-15 have been cancelled.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As for independent claim 1, the first limitation recites "recording a request for at least one service....", however it is not clear whether "a provider of the requested service" in the second step, and "one or more potential providers of the requested service" in the forth step is the same or different providers? If they are different, which one of the requested service is preferred back to the "a request" of the first step?

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims **1, 3-13, 16-30** are rejected under 35 U.S.C. 102(e) as anticipated by YOSHIDA ET AL (US 2003/0093361).

As for independent claim 1, YOSHIDA ET AL discloses a method for facilitating an exchange of a service or intangible, non-monetary asset for use in an event for a sponsorship {see par. 0002}, the method comprising:

a) recording/receiving a request (information/data) using a computing device, for at least one service, non monetary asset for use in an event to be attended by a plurality of attendees, and the request having a fulfillment cost related to the event;

{see figures 1, 4-6 and pars. 0002; 0153-0156; 0222; 0319-0324 which discloses a requestor input the request information for a service, non monetary asset (commodities or services) for use in an event, wherein *the items to be entered in desired amount, prices for furnishment of the commodities or service,*

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desired in the sponsor. This requested *information are recorded in the input data recording unit 20C* as in figure 4, par. 0323};

Note: As for the limitation in of “the request having a fulfillment cost related to the event”, or the request having a cost or price of the service or materials required to fulfill (carry out) the event, this reads over “, desired amount, prices for furnishment of the commodities or service, desired in the sponsor. This requested *information is recorded in the input data recording unit 20C* as in figure 4, pars 0322-0323}.

Note: As for the limitation “to be attended by a plurality of attendees, this is considered as intended use of the step/function “recording”, in other word this limitation does not impact the manipulative step/function “recording a request” in the method claim.

b) receiving at the computing device a sponsorship offer comprising two or more sponsorship opportunities from a plurality of sponsorship opportunities available at the event, wherein at least one of the two or more sponsorship opportunities comprises branding a tangible item distributed to the event attendees;

{see at least figures 18, 19 (element 42B), 20 (element 46C) and figure 21, at least pars. 0002, 0450-0451, 0454-0455, 0474-0475, 0479-0480 wherein YOSHIDA ET AL discloses *receiving commodities, services* (sponsorship opportunities) *that can be offered under sponsorship*, the commodities and services. One or more sponsorship opportunities comprise *logo commercial*

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marks for business entities in a sport program, represented on sports equipment or advertisement plate or tower {specifically pars. 0479-0480, figure 21}

Note, as for the limitation “the two or more sponsorship opportunities to be given.....to defray at least a portion of the fulfillment cost of the requested service or tangible non-monetary asset” is considered as intended use of the step/function “receiving a sponsorship offer” because it is not a positively recited step. In other word, this limitation does not impact the manipulative step/function of “receiving a sponsorship offer comprising two or more sponsorship opportunities” in the method step, thus it is given no patentable weight. See MPEP 2173.05 (q), 2106, and 2111.04, which indicate that a method claim requires active, positive steps.

However, the term “defray the cost” is interpreted as “a given a way amount of money” or “pay the cost for a sponsorship event” and this is inherently included in the teaching of YOSHIDA ET AL as shown on pars. [0321-0323] which indicated “prices for furnishment of the commodities or service,” or the cost by the sponsorship for carrying out the event activities which would inherently defray at least partially the fulfillment cost of the request.

c) using the computing device to associate (link) the request (information request from requester) with a sponsorship offer (commodities and services offered from the business operators/register member)

{see at least figures 12, 14 at least pars. 0361, 0394 discloses sponsorship transaction broker server is used for a sponsorship transaction

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communication between the sponsorship requester and the sponsor/or business entities or registered member who offer the commodities and services.

{see figures 1, 4-6; pars. 0319-0324; 0327-0329 discloses *the request is associated with desired conditions for sponsorship* (sponsorship opportunity).

The desired conditions for sponsorship include *commodities or services, quantity, date and time of execution or use, site of use of delivery, amount, condition of use, conditions of distribution, items are to be entered in desired amount, prices for furnishment of the commodities or services*}).

d) making the request and the associated sponsorship offer available to one or more potential providers of the requested service, non-monetary asset using computing device, the request and associated sponsorship offer indicating each of the at least one service or tangible, the two ore more sponsorship opportunities available at the event, and the portion of the fulfillment cost of the at least one service to be defrayed by the two or more sponsorship opportunities.

{see at least figures 14, 16 at least pars. 0430-0431 discloses the agreement of the sponsorship opportunities between the sponsor requester and the provider, and the commodities and services (sponsorship opportunities) are available at the event and pars. 0475-048-, figures 20-21 discloses making the sponsorship opportunities available at the event}.

As indicated above in paragraph (d), the term “defray the cost” is interpreted as “a given a way amount of money” or “pay the cost for a sponsorship event” and this is inherently included in the teaching of YOSHIDA ET AL as shown on pars. [0321-0323] which indicated “prices for furnishment of

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the commodities or service,” or the cost by the sponsorship for carrying out the event activities which would inherently defray at least partially the fulfillment cost of the request.

Note: This appears to be a “data processing” method (using a computing device to record, associate and making a request/information”, therefore, “data” or “information” about the “request”, “two or more sponsorship opportunities to be given to a provider to defray a portion of the fulfillment cost”, “the two or more sponsorship opportunities comprising branding a tangible item distributed to the event attendees” have been determined to be non-functional descriptive material (NFDM), because the “request, sponsorship offer comprising sponsorship opportunities” information/data is only recorded, associated and making this type of information available to a user (provider).

Therefore, the “request” and “sponsorship offer” information is given no patentable weight and does not need to be taught by the prior art. Nonfunctional descriptive material can not render nonobvious an invention that would have otherwise been obvious. In re Gulack, 703 F. 2d 1381, 1385, 217 USPQ 401, 40-4 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability. See MPEP 2106.01.

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As for dep. claim 3, YOSHIDA ET AL discloses the sponsorship offer presented to the event owner/requestor is a configurable sponsorship offer capable of being modified by the requestor/event owner {see at least figures 5-6; pars. 0227; 0322-0323}.

As for dep. claims 4-6, which discloses receiving a modification of the sponsorship offer from the event owner/requestor, wherein this modification is the modification of the sponsorship offer determines a portion of the fulfillment cost of the request defrayed by one or more sponsorship opportunities; and the modification of the sponsorship offer relates to a sponsorship exposure given to the provider of the request. This is taught in YOSHIDA ET AL

{see at least figures 5-6; and 20-21 pars. 0322-0323; discloses the requestor enters the desired amount of the items of for the event, the prices for furnishment of the commodities or service; and figure 10; 0345-0347 discloses receiving the requested amount from the requestor}.

As for dep. claim 7 which discloses identifying a provider (sponsor or registered member) capable of providing the requested service, non-monetary asset. This is taught in YOSHIDA ET AL {see at least figures 10, 13 and 14; pars. 0394-0398 discloses the determine/identify the "register member/sponsor" to whom the sponsorship request is to be distributed; or whom meet with the sponsorship requester information}.

As for dep. claim 8, which discloses transmitting the request and associated sponsorship offer to the identified provider, this is taught in YOSHIDA ET AL {see at least figures 10, 13 and 14; pars. 0394-0398.

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As for dep. claims 9-10 which discloses receiving an acceptance and counteroffer of the requested and associated the sponsorship offer from the identified provider, this is taught in YOSHIDA ET AL {see at least figure 16; pars. 0424-0427}.

As for dep. claims 11-12, which discloses the counter offer modifies a portion of the fulfillment cost of the request; and it is given to the identified provider at the event; this is taught in YOSHIDA ET AL {see at least figures 5, 6 and 10}

As for dep. claim 13, which discloses presenting a catalog of non-monetary assets or services to the event owner to assist the event, this is taught in YOSHIDA ET AL, see at least figures 4-6; 0002; 0234, 0321-0323.

As for independent claim 16, YOSHIDA ET AL disclose a system for facilitating an exchange of a service, non-monetary asset for use in an event for a sponsorship opportunity, comprising:

a) an agent server (brokerage server) coupled to a network {see figure 1-3, 12; at least pars. 0006; 0044; 0222-0225; 0234-0236}; and

b) a request database communicatively coupled to the agent server and comprising a catalog of a plurality of services non-monetary assets available use in an event, each of the plurality of services in the catalog having a respective fulfillment cost related to the event {see at least figures 1-3, 21; 0044-0046; 0222-0225; 0234-0236; 0480}

wherein the agent server is configured to present the catalog to an event owner (a request for sponsorship) and configured to perform the similar steps of

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independent claim 1 above. Therefore, it is rejected for the same reason sets forth the rejected independent claim 1 as indicated above.

As for dep. claim 17, which discloses the agent server identifies a provider capable of providing the requested service, this is taught in YOSHIDA ET AL {see at least figures 10, 13 and 14; pars. 0394-0398.

As for dep. claim 18, which discloses the agent server transmits the request and associated sponsorship offer to the identified provider, this is taught in YOSHIDA ET AL {see at least figures 10, 13 and 14; pars. 0394-0398.

As for dep. claim 19, which discloses wherein the agent server receives an acceptance of the request and associated sponsorship offer from the identified provider, this is taught in YOSHIDA ET AL {see at least figure 16; pars. 0424-0427}.

As for dep. claims 20-22, which discloses the agent server, receives a counteroffer from the identified provider responsive to the request and associated sponsorship offer, and the agent server is to accept the counteroffer and transfer the counteroffer to the event owner. This is taught in YOSHIDA ET AL {see figures 14, 16-18; pars. 0225-0228; 0394-0398}.

As for dep. claims 23-24, which discloses the counteroffer modifies the portion of the cost of requested service by the sponsorship opportunities; and the counter offer modifies the two or more sponsorship opportunities to be given to the provider of the requested service at the event; This is taught in YOSHIDA ET AL {see at least figures 5-6;10 pars. 0322-0323; 0345-0347}.

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As for claims 25-28, which discloses receiving the bid/information/price responsive to the request and associated sponsorship offer; and select the bids/prices to a predetermine criteria associate with the request, this is taught in YOSHIDA ET AL {see at least figures 5-6;10 pars. 0322-0323;0345-0347}.

As for independent claim 29, YOSHIDA ET AL discloses a computer readable storage medium comprising instructions to cause a computing device to perform a similar method steps in the above rejected independent claim 1, therefore it is rejected for the same reason sets forth the independent claim 1 above. Furthermore, YOSHIDA ET AL also discloses the step presenting to the event owner (broadcast business operator/requestor) a catalog of services available from one or more providers (sponsor) for use in the event {see at least figures 4-6, and 21; pars. 0319-0324;0479-0481}.

As for dep. claim 30, which deals with the providers/sponsor receiving the a plurality of bids/or an price offer, and selecting price offer for the sponsorship request from the owner/sellers, this is fairly taught in YOSHIDA ET AL {see figures 14, 16-18; pars. 0225-0228; 0394-0398}.

Response to Arguments

Applicant's arguments filed on 07/20/10 have been fully considered but they are not persuasive.

1) As for an argument on pages 12-13, Applicant's states that YOSHIDA fails to discloses “*a sponsorship offer comprising two or more sponsorship opportunities, YOSHIDA appears to discuss only one type of sponsorship opportunity (inclusion in “auxiliary data”), since all sponsors receive the same*”

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“opportunity”, YOSHIDA do not specify a particular sponsorship opportunity, much less specify two or more sponsorship opportunities are recited in the claims” However, this is not persuasive for the following reasons:

a) The Examiner disagrees with Applicant's assertion that the “type of sponsorship opportunity” is similar to the “opportunity”. Assuming YOSHIDA discloses only one type of sponsorship opportunity (inclusion in the "auxiliary data"), however there are plurality of the opportunities are included under the type of "auxiliary data" as indicated in figures 20-21, pars. 0470, 0475-0476, 0479-0480. For example, YOSHIDA specifically in figures 20-21, pars. 0475-0476 discloses under the ancillary data (type of sponsorship opportunity) comprise plurality of sponsorship opportunities (commodities and services are offered by the service provider) such as *brand name, commodity category name, the apparel, makes, hair styles worn by the performer, furniture used in stadium set will be offered in the picture programs for motion pictures, dramas; logos or other commercial marks for business entities, represented on sports equipment or advertisement will be offered in a sports program*. Therefore, YOSHIDA discloses the claimed invention *“a sponsorship offer comprising two or more sponsorship opportunities”* as indicated above.

b) Furthermore, since the claim appears to be a “data processing” method (using a computing device to record, associate and making a request/information", therefore, “data” or “information” about the “two or more sponsorship opportunities branding a tangible item distributed to the event attendees” have been determined to be non-functional descriptive material

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(NFDM), because the "sponsorship offer comprising sponsorship opportunities" information/data is only recorded, associated and making this type of information available to a user (provider). Therefore, this type of information is given no patentable weight. Nonfunctional descriptive material can not render nonobvious an invention that would have otherwise been obvious. In re Gulack, 703 F. 2d 1381, 1385, 217 USPQ 401, 40-4 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability. See MPEP 2106.01.

2) As for an argument on page 13 of the remark, Applicant states that the "conditions for sponsorship" discusses in YOSHIDA appear to be defined the responsibilities of the provider of a service or product, and are not sponsorship opportunities to be given to the provider as recited in the claims". However, this is not persuasive because Applicant's interpretation "the type of opportunity" is still in the same as "opportunity", however this is not persuasive as explained in (1) above. When the sponsorship opportunities e.g. the apparel, accessories, sport equipment are offered for the event from the provider, a conditions of sponsorship opportunities are also established such as the quantity of the sponsor items (e.g. apparel, accessories, sport equipments), or what date and time these items need to be offered or presented at the event". {see YOSHIDA as shown in figures 19-21, at least pars.0076, 0453-0455}. Therefore, the "conditions for sponsorship" (e.g. quantity, amount, prices for furnishment of the commodities) is also part of the sponsorship opportunities.

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3) As for an argument on pages 13-14, Applicant states that “YOSHIDA fails to disclose *a sponsorship opportunity comprising branding a tangible distributed to the event attendees/person*”. However, this is not persuasive because YOSHIDA at least figure 21, par. 0002, 0480 discloses goods and services are supplied by the provider for the events, in return these goods and services will be advertised at the event. Specifically YOSHIDA ET AL par. 0480 discloses *receiving commodities, services (sponsorship opportunities) that can be offered under sponsorship*. One or more sponsorship opportunities comprise *logo commercial marks for business entities in a sport program, represented on sports equipment or advertisement plate or tower* {specifically pars. 0479-0480, figure 21}. Therefore, YOSHIDA discloses the claimed invention “*a sponsorship opportunity comprising branding a tangible distributed to the event attendees/person*” as shown above.

4) As for an argument on page 14, Applicant states that “YOSHIDA fails to disclose making the request and sponsorship offer available to one or more potential providers”. However this is not persuasive because YOSHIDA figures 14, 16 at least pars. 0430-0431 discloses the agreement of the sponsorship opportunities between the sponsor requester and the provider, and the commodities and services (sponsorship opportunities) are available at the event and pars. 0475-048-, figures 20-21 discloses making the sponsorship opportunities available at the event.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy-Vi Nguyen whose telephone number is 571-270-1614. The examiner can normally be reached on Monday through Thursday from 8:30 A.M to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. N./

Examiner, Art Unit 3689

/Janice A. Mooneyham/

Supervisory Patent Examiner, Art Unit 3689

